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8 Attorneys for Plaintiffs,
9 SONY BMG MUSIC ENTERTAINMENT;
10 and UMG RECORDINGS, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 SONY BMG MUSIC ENTERTAINMENT, a
15 Delaware general partnership; and UMG
16 RECORDINGS, INC., a Delaware corporation,

17 Plaintiffs,

18 v.

19 TREVOR SPIETH AKA TREVOR RUNNELS,
20 Defendant.

CASE NO. 3:07-CV-04855-SI

Honorable Susan Illston

**EX PARTE APPLICATION FOR LEAVE
OF COURT TO CONDUCT TELEPHONIC
DEPOSITION AND [PROPOSED] ORDER**

1 Pursuant to Federal Rule of Civil Procedure 30(b)(7), Plaintiffs hereby request leave of Court
2 to take the telephonic deposition of Brittany Holmes. Along with this *ex parte* application, Plaintiffs
3 have submitted to the Court an *ex parte* application to extend the time to serve defendant with
4 process.

5 Plaintiffs hereby request for leave of Court so that Plaintiffs may proceed with discovery in
6 this matter in order to serve Defendant Trevor Spieth ("Defendant") with the summons and
7 complaint. Plaintiffs have been diligently attempting to serve Defendant with the summons and
8 complaint, however have been unable to locate Defendant and find a valid address for him.
9 Plaintiffs filed the complaint against Defendant on March 24, 2008. Before filing the complaint,
10 Plaintiffs' counsel spoke with Defendant once on January 16, 2008. In this conversation, Plaintiffs'
11 counsel described the nature of the case, and Defendant was informed that Plaintiffs were willing to
12 negotiate a settlement before filing the First Amended Complaint against him. Although during this
13 conversation Defendant admitted committing the copyright infringement at issue in this case,
14 Defendant did not agree to settle and did not provide Plaintiffs with his address. Plaintiffs are
15 diligently attempting to serve Defendant, and remain in the process of attempting to locate
16 Defendant's address. However, recent attempts to serve Defendant at addresses discovered through
17 investigation have proven unsuccessful.

18 Among other discovery efforts, Plaintiffs' counsel has attempted to contact Defendant's
19 friend, Brittany Holmes, for the purpose of finding an address to serve Defendant with the summons
20 and complaint. Zavala Declaration at ¶ 2. Ms. Holmes has not provided this information to
21 Plaintiffs' counsel. *Id.* Plaintiffs' counsel therefore intends to depose Ms. Holmes for the purpose
22 of discovering information that will be helpful in serving Defendant with the summons and
23 complaint. Good cause for this request exists because Ms. Holmes resides in Sacramento, and the
24 expense involved to take a live deposition is costly, especially in proportion to the amount at issue in
25 this case; thus, Plaintiffs request leave of Court to take Ms. Holmes' deposition telephonically. *Id.* at
26 ¶ 3. The proposed deposition would be recorded stenographically and/or through the use of video
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1 recording. Plaintiffs therefore respectfully request for leave of Court to take the telephonic
2 deposition of Ms. Holmes for the sole purpose of discovering Defendant's address.

3 Dated: July 16, 2008

HOLME ROBERTS & OWEN LLP

4 By: /s/ Dawniell Alise Zavala
5 DAWNIELL ALISE ZAVALA
6 Attorney for Plaintiffs
7

8 **[PROPOSED] ORDER**

9 Good cause having been shown:

10 **IT IS ORDERED** that Plaintiffs shall be granted leave to Court to take the telephonic
11 deposition of Ms. Brittany Holmes. The deposition may be recorded stenographically and/or by
12 video.
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15 Dated: _____

16 By: _____
17 Honorable Susan Illston
18 United States District Judge
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